

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Deborah V. Hubbard.,)	C/A No. 8:14-cv-02664-BHH-JDA
<i>a/k/a Deborah Videtto Hubbard,</i>)	
<i>a/k/a Deborah Hubbad-Sarvis</i>)	
)	
Plaintiff,)	
)	
v.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Amelia Williams, Lt. T. Bookman,)	
)	
Defendants.)	
)	

This matter is before the Court on a motion to dismiss without prejudice filed by Plaintiff.¹ [Doc. 50.] Plaintiff is proceeding pro se and brings this civil rights action pursuant to 42 U.S.C. § 1983. [Docs. 1, 5.] Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under 42 U.S.C. § 1983 and to submit findings and recommendations to the District Court.

DISCUSSION

On April 3, 2015, Plaintiff filed a motion to dismiss the Complaint without prejudice. [Doc. 50.] On April 7, 2015, Defendants filed a response in support of Plaintiff's motion, indicating Defendants consent to a dismissal without prejudice. [Doc. 51.]

Under the Federal Rules of Civil Procedure, a plaintiff may request the court to dismiss his action. Fed. R. Civ. P. 41(a)(2). The court may dismiss the action "on terms that the court considers proper." *Id.* Unless the court orders otherwise, dismissal of an

¹Also pending before the Court is a motion for summary judgment filed by Defendants [Doc. 24], a motion for summary judgment filed by Plaintiff [Doc. 27], and a motion for permanent injunction filed by Plaintiff [Doc. 28].

action at the plaintiff's request is without prejudice. *Id.* Here, because Defendants have consented to the dismissal of this action, the Court recommends Plaintiff's motion be granted.²

CONCLUSION

Wherefore, based upon the foregoing, the Court recommends Plaintiff's motion to dismiss [Doc. 50] be GRANTED; and Defendants' motion for summary judgment [Doc. 24], Plaintiff's motion for summary judgment [Doc. 27], and Plaintiff's motion for permanent injunction [Doc. 28] be FOUND AS MOOT, and the Complaint be dismissed without prejudice.

IT IS SO RECOMMENDED.

S/Jacquelyn D. Austin
United States Magistrate Judge

April 10, 2015
Greenville, South Carolina

² The Court notes that Plaintiff states she is seeking dismissal because she claims she is missing records, she has been transferred to a new prison, her health continues to deteriorate, she is wary of additional retaliation, and she feels has been treated unequally. [Doc. 50.] However, Plaintiff has voluntarily requested that her case be dismissed without prejudice, and, accordingly, the Court finds it is proper to do so. See *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir.1987) (finding that the purpose of Rule 41(a)(2) is to allow freely for voluntary dismissals "unless the parties will be unfairly prejudiced.").